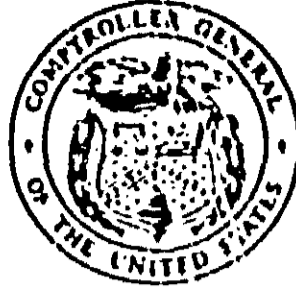


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Memo

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-201176.3

DATE: January 27, 1982

MATTER OF: Rapicom, Inc.

DIGEST:

1. GAO rejects the allegation that a contract awarded pursuant to a GAO recommendation that the contract with the protester be terminated and award made to another firm improperly was made noncompetitively, since the award was based on the competition that resulted in the improper award to the protester.
2. Protest that the contract awarded as a result of a GAO recommendation that the protester's contract be terminated and award made to another firm improperly provides for options extending beyond the maximum term of the original contract is denied. The contracting officer advises that he reads both contracts as providing for renewal through fiscal year 1983, and that he will not extend the replacement contract beyond that point.

Rapicom, Inc. protests the award of a contract to Panafax Corporation by the Internal Revenue Service (IRS) pursuant to this Office's recommendation that an existing contract with Rapicom be terminated and award made to Panafax. Panafax Corporation, B-201176, June 22, 1981, 81-1 CPD 515, aff'd, B-201176.2, September 16, 1981, 81-2 CPD 220.

Rapicom contends that the contract was awarded to Panafax without any effort to solicit competitive proposals as required by section 1-1.301 of the Federal Procurement Regulations (FPR) (1964 ed.). Further, Rapicom contends that the award to Panafax cannot be viewed simply as a replacement for the contract originally awarded to Rapicom since Panafax's contract allegedly provides for renewal options beyond the maximum term of the Rapicom contract. We find no merit to these allegations.

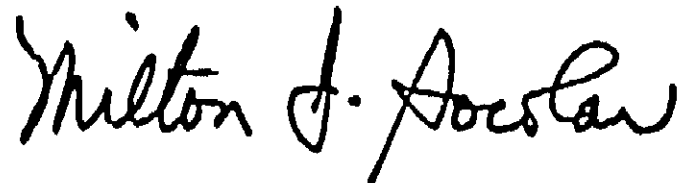
We addressed the contention that the award to Panafax improperly was made noncompetitively in our decision of September 16, 1981, supra. We stated that the award should not be characterized as noncompetitive because it was based on the competition under the procurement that resulted in the improper award to Rapicom. We therefore find it unnecessary to address the matter further. See Embassy House Inc., B-197854.2, B-199555, B-199556, September 10, 1980, 80-2 CPD 187.

With regard to the allegation that Panafax's contract contains options extending beyond the term of the original contract with Rapicom, both contracts provide for annual renewal at the Government's option, and also state that the term of the contract shall not exceed 36 months. Since Panafax's contract was awarded on August 11, 1981 (more than nine months after the original award to Rapicom), Rapicom apparently believes that it could be extended 36 months from that date, which obviously is beyond the point provided for in the original contract.

We agree with Rapicom that in order for Panafax's contract to be properly viewed as a replacement for the contract originally awarded to Rapicom, it should not contain options extending beyond those provided for by that contract. By letter of January 7, 1982, however, the IRS contracting officer advises that the agency's intention was and is that the award to Panafax be nothing more than a replacement for the terminated contract with Rapicom. Thus, the contracting officer states that he reads both contracts as providing for extension of performance only through September 30, 1983, and that he will not extend Panafax's contract beyond that date. Consequently, we will not object to the contract award to Panafax.

Since it is clear from Rapicom's initial submission and the contracting officer's advice that the protest is without merit, we have reached our decision without obtaining a detailed report from the IRS and without the conference requested by Rapicom, because neither would serve any useful purpose. See Gateway Van & Storage Company, B-198900, July 1, 1980, 80-2 CPD 4. In this respect, we note Rapicom's complaint that it has never been afforded the conference it requested in the "original protest," which we resolved in the June 22, 1981 decision cited above. Rapicom, however, did not request a conference in connection with that protest. Although Rapicom did ask for a conference in its request that we reconsider the June 22 decision, we denied that request in our September 16 decision for the same reason that we do here.

The protest is denied.



Acting Comptroller General
of the United States